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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,194	03/08/2001	Bjoern Magnussen	ELLIP-002A	4082

7590 05/08/2002

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

EXAMINER

BUDD, MARK OSBORNE

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

801 194

Applicant(s)

Magnussen et al

Examiner

M. Budd

Group Art Unit

2834

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-126 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-126 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit 2824

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-85, drawn to a vibration motor, classified in class 310, subclass 323.02.

II. Claims 86-106, drawn to a method of design for an ultrasonic motor, classified in class 29, subclass 25.35.

III. Claims 107-123, drawn to a method of operating an ultrasonic motor, classified in class 310, subclass 311.

IV. Claims 124-126, drawn to a drive circuit for an ultrasonic motor, classified in class 310, subclass 317.

The inventions are distinct, each from the other because:

Inventions group I and group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(I)). In the instant case the motor of group I need not be optimized by the method of group II, it could merely be used "as is" off the assembly line and not adjusted. Also, the design could ignore the relationship of the major and minor axis in regard to the angle of motion application.

Inventions group I and group III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP

Art Unit 2834


§ 806.05(b)). In the instant case the motor of group I can be used to drive an element without changing the angle of vibration application or the polarity and/or phase of the drive signal.

The drive circuit of group IV could drive any ultrasonic motor, including one using pure bending or pure longitudinal modes. Also, the motor of Group I could be driven using more than two lead wires.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37

CFR 1.131(c).


MARK E. BUDD
PRIMARY EXAMINER
ART UNIT 212